

MINUTES
LAND AND WATER CONSERVATION BOARD
BUSINESS MEETING
April 4, 2011

Wausau Room
Marathon County Public Library
300 North 1st Street, Wausau, Wisconsin

Item #1 Call to Order--open meeting notice, new member oath of office, approval of agenda, and approval of LWCB meeting minutes

The meeting was called to order by Chairman Cupp at 10 a.m. with the pledge of allegiance. Other LWCB members present were: Tom Rudolph, Denny Caneff, Sandi Cihlar, Chuck Wagner, Robin Leary, Patrick Laughrin, and John Petty for the DATCP Secretary. A quorum was present. Advisor present was Greg Baneck for WALCE.

Cupp confirmed with Lori Price that the meeting had been publicly noticed, as required. Price administered the oath of office to the two new LWCB members, Laughrin and Petty. Introductions then took place.

Cupp presented the agenda for approval. Rudolph made a motion to approve the agenda, and Leary seconded the motion. The motion passed. Cupp presented the February 1, 2011, LWCB meeting minutes for approval. Rudolph requested a change to page 2, Item #3, first paragraph, fifth sentence, where Caneff should be listed as the Secretary and Rudolph as the Vice-Chair. Wagner made a motion to approve the amended minutes, and Cihlar seconded the motion. The motion passed.

Item #2 Public appearances

No public appearances took place at this meeting.

Item #3 Report of the LWCB Officers Committee: approval of the March 1 and 9, 2011 meeting minutes; LWCB legislation update; and status report on "land spreading of waste" forum

Cupp presented the March 1 and March 9, 2011, meeting minutes for approval. Rudolph had one change to Item #1, second paragraph, second sentence: change "Rudolf" to "Rudolph." Rudolph made a motion to approve the amended minutes, and Caneff seconded the motion. The motion passed. Caneff made a motion to approve the March 9th minutes as written, and Rudolph seconded the motion. The motion passed.

Cupp reported that the LWCB legislation has been put on hold because of the various state budget bills that have come to the forefront with the legislature. At this time, he did not know when it would be brought forward.

Caneff reported that he and Cihlar met with Ken Johnson and Fred Hegeman, both with DNR, to discuss the waste forum. At that time, it was not clear which DNR rules related to waste would be advanced for revision. However, issues with waste spreading still remain so Caneff and Cihlar recommended going ahead with the forum in August to be held at DATCP in Madison. Caneff and Cihlar will meet again with DNR in early May, and then will come up with a draft forum agenda including a list of speakers. Laughrin added that waste is still an issue for Calumet County in that there are concerns with the amount and content of waste going into a local digester.

Item #4 Recommendation for approval of the Waushara County Land and Water Resource Management Plan—Ed Hernandez, Waushara County LCD; and Dennis Presser, DATCP

Hernandez presented the LWRM plan to the LWCB for an approval recommendation. His presentation covered prior plan accomplishments and amount of dollars spent during that time period; the new plan objectives, goals, actions, timeline, and components; the county's geography; natural resources and trends within the county; information and education activities; and other programs and services provided by the LCD.

After the presentation, the LWCB discussed with the county the following topics: producers receiving waste other than manure, and waste trends in the county; groundwater monitoring; plan activities performed on a yearly basis; and low water levels in the county. Wagner made a motion for the LWCB to recommend approval of the Waushara County land and water resource management plan. Rudolph seconded the motion. The motion passed.

Item #5 Recommendation for approval of the Buffalo County Land and Water Resource Management Plan—Julie Lindstrom, Buffalo County LCD; and Dennis Presser, DATCP

Lindstrom presented the LWRM plan to the LWCB for an approval recommendation. Her presentation covered the LCD mission, staff, and collaborative work with other agencies; county geography; prior plan success stories; new plan objectives, goals, budget, and workplan; implementation of NR 151; and grade stabilization projects.

After the presentation, the LWCB discussed with the county the topics of maintenance of PL 566 structures (flood control structures); scheduled plan reviews with the county board throughout the year; soil erosion problems within the county; and whether increased water events would affect the number of conservation practices installed. Leary made a motion for the LWCB to recommend approval of the Buffalo County land and water resource management plan. Cihlar seconded the motion. The motion passed.

The LWCB Chair changed the agenda to move the Ozaukee County LWRM plan presentation to before Item #6.

Item #8 Recommendation for approval of the Ozaukee County Land and Water Resource Management Plan—Andy Holschbach, Ozaukee County LWMD; and Dennis Presser, DATCP

Holschbach presented the plan to the LWCB for an approval recommendation. His presentation covered the county geography; loss of agricultural land in the county; new plan goals; the history of the Milwaukee River priority watershed program; major resource concerns; the county's participation in the Conservation Reserve Enhancement Program and the Great Lakes Restoration Initiative; and the LCD's work with the state conservation standards, manure storage permits, Working Lands Initiative, and invasive species.

After the presentation, the LWCB discussed with the county the following topics: working with the county health department; sentiment behind strong governmental role in environmental protection; meeting stricter standards through active participation by the citizens; and whether high county population affects conservation planning decisions. Laughrin made a motion for the LWCB to recommend approval of the Ozaukee County land and water resource management plan. Rudolph seconded the motion. The motion passed.

Item #6 Extension of DATCP-funded projects from 2010 into 2011—Kathy Pielsticker, DATCP

Pielsticker reported on the recommended extension of 2010 bond and SEG grant funds for county cost-share projects into 2011; the counties whose extension request approvals are based on adoption of their new LWRM plans; and recommended extension request of 2010 SEG grant funds for Other Project Co-operators (UW and Northeast Wisconsin Technical College) into 2011. Counties can request a 1-year extension if their request meets ATCP 50.34(6) and they have funds remaining to extend. The attachments list extension requests by funds and counties, and by counties and individual projects. On extensions for Other Project Co-operators, the NWTC will extend the full amount because of a delay in the original start up due to a transition in administration. For the UW request, DATCP has requested and received a complete report on what has been accomplished with the funds. DATCP will follow its usual procedure for handling extended and unspent funds, including carry over of SEG funds for grant recipients and use of unspent bond funds for future allocations. Caneff asked if the money for the NWTC was for nutrient management activities. Kathy replied that the money is for nutrient management training for trainers who will instruct the farmers. Wagner made a motion for the LWCB to recommend extension of the 2010 bond and SEG funds for county cost-share projects, and extension of the 2010 SEG funds provided to the UW extension, UW CALS and the NWTC into 2011; and with counties that have expired LWRM plans as of March 1, 2011, that their extension requests approvals will be contingent upon adoption and approval of their LWRM plans. Cihlar seconded the motion. The motion passed.

Item #7 Proposal for LWCB to electronically receive meeting materials—Kathy Pielsticker, DATCP

Pielsticker presented a proposal for LWCB members and advisors to electronically receive meeting materials either through e-mail message or through DATCP's website. This proposal will provide costs savings in mailing and preparation of materials as well as for counties reproducing the plans. This proposal, if implemented, would provide another option to send and receive the materials. The LWCB members and advisors would still be able to request to receive the materials in hardcopy. LWCB members had concerns with transferring printing costs to board members and with the efficiency for one person to reproduce materials rather than many people printing materials. It was decided to table this agenda item until the June meeting with staff presenting revised bylaws language to clarify that the LWCB members could still receive the materials in hardcopy.

Item #8 Agency reports

a. FSA

No report was given.

b. NRCS

No report was given.

c. UW-CALS

No report was given.

d. UW-Extension

No report was given.

e. WALCE

Baneck reported that both DATCP and DNR Secretaries attended last week's WALCE county conservationists' spring meeting. The counties took this opportunity to speak directly with the agency heads and express their concerns. WALCE and WLWCA continue to move forward with the proposed merger of the two organizations.

f. WLWCA

No report was given.

g. DATCP

Pielsticker commented that a DATCP report, and reports on the 2010 transfers of cost-share dollars and NOD/NOI awards, and the 2009 Program Highlights were given to the LWCB in hardcopy in order to save time in today's business meeting agenda. Cihlar asked if counties were penalized for transferring unused funds to other counties. Pielsticker responded that they were not penalized. In connection with DATCP now verifying accuracy of salaries for county LCD positions, Leary asked if there were problems with counties providing inaccurate information. Pielsticker responded that some counties have been combining departments so DATCP is trying to determine how much time county staff devote to land and water conservation duties compared to other duties not related to conservation. There have also been retirements taking place at the county level that will affect the allocation. In regards to Farmland Preservation, Caneff asked if the new NR 151 provisions will not be enforced until ATCP 50 has been revised. Pielsticker responded that this was correct and added that farmers still need to comply with the current ATCP 50 in order to receive the Farmland Preservation credits.

h. DNR

No report was given.

Adjourn

There being no further business before the LWCB, Rudolph made a motion for the meeting to adjourn and Laughrin seconded the motion. The motion passed, and the meeting adjourned at 12:40 p.m.

Respectfully submitted,



Denny Caneff, Secretary

6/7/11

Date

Recorder: LP



State of Wisconsin
Land and Water Conservation Board

PO Box 8911
Madison, WI 53708-8911
608-224-4622

DATE: June 30, 2011

TO: Governor Scott Walker
Cathy Stepp, DNR Secretary
Ben Brancel, DATCP Secretary
Senators, Wisconsin State Legislature
Representatives, Wisconsin State Legislature
Mark Steward, Executive Board President, Wisconsin County Code Administrators
Mark O'Connell, Executive Director, Wisconsin Counties Association

CC: Robert Marchant, Senate Chief Clerk
Patrick Fuller, Assembly Chief Clerk
Members and Advisors, Wisconsin Land and Water Conservation Board

FROM: Mark Cupp, Chair
Wisconsin Land and Water Conservation Board

On April 4, 2011, the Wisconsin Land and Water Conservation Board held a public forum regarding the new statewide shoreland zoning and shoreland protection ordinance, officially known as NR 115.

The purpose of the forum was to assess progress being made by Wisconsin counties in adopting the model ordinance for their purposes, and to hear about problems and issues with local implementation.

To summarize the forum's findings, the LWCB concludes that while there have been challenges to implementing the shoreland ordinance in some counties—namely, difficulty in implementing the impervious surface standard—most counties in the state are proceeding apace to implement shoreland zoning locally, within the guidelines provided by NR 115.

For further details on what was discussed at the forum, I have attached the forum minutes. If you have any questions or comments about the forum, please contact me at (608) 739-3188 or mark.cupp@wisconsin.gov.

Mark Cupp, Chair • Tom Rudolph, Vice-Chair • Dennis Caneff, Secretary
Members: Sondi Cihlar • Robin Leary • Charles Wagner • Patrick Laughlin • Ryan Schroeder
Jana Steinmetz • John Petty • Ken Johnson

**MINUTES
LAND AND WATER CONSERVATION BOARD**

**FORUM ON
LOCAL IMPLEMENTATION OF REVISED NR 115 ON
SHORELAND ZONING REQUIREMENTS**

**April 4, 2011
Wausau Room
Marathon County Public Library
300 North 1st Street, Wausau, Wisconsin**

Item #1 Call to Order--open meeting notice, approval of agenda, introductions, and forum purpose

The forum was called to order by Chairman Cupp at 1:17 p.m. Other LWCB members present were: Tom Rudolph, Denny Caneff, Sandi Cihlar, Chuck Wagner, Robin Leary, Patrick Laughrin, and John Petty for the DATCP Secretary. A quorum was present. Advisor present was Greg Baneck for WALCE.

Cupp confirmed with Lori Price that the forum had been publicly noticed, as required. Cupp presented the agenda for approval. Rudolph made a motion to approve the agenda, and Wagner seconded the motion. The motion passed. The LWCB members and advisors then introduced themselves. The purpose of the forum was to fulfill one part of the LWCB's mission to bring forth emerging conservation issues to the public. Rudolph stated that regardless of where the update of NR 115 stands, it is necessary for counties to update their shoreland ordinances to protect the waters of the state.

Item #2 General overview of NR 115—Lynn Markham, Shoreland and Land Use Specialist, UW Extension Stevens Point

Markham presented an overview of NR 115. Her presentation covered the comparison of water quality and property values; shoreland zoning history; NR 115 revision efforts; standards that remain the same; standards that have changed and why, including shoreline buffers, impervious surfaces, nonconforming structures, and shoreland mitigation; and resources to help with ordinance revision.

After the presentation, Markham answered questions regarding the effects of the NR 115 update on existing shoreland buffers, reactions from counties to the NR 115 revisions, and when you may or may not need a variance. She stated a majority of counties she has encountered in her educational work are in favor of the provisions of the shoreland zoning rules.

Item #3 Oneida County efforts to revise ordinance: challenges faced by Oneida County in efforts to revise ordinance; and Lakes and Rivers Association's proposal to include information beyond model ordinance—Karl Jennrich, Oneida County Planning and Zoning Director; and Bob Martini, Oneida County Lakes and Rivers Association

Jennrich presented information on the history of shoreland zoning in the county, the county ordinance highlights, and ordinance changes as a result of revisions to NR 115. A new county ordinance passed in 2000 that looked at lake classification, lot sizes, mitigation, impervious surfaces, and other shoreland management factors that caused a “revolt” locally and resulted in a big turnover on the county board. The biggest issue related to NR 115 adoption in Oneida County is how the impervious surface standard will apply to landowners who are not riparian owners. The county is still aiming to meet the February 1, 2012, deadline to pass an ordinance.

Martini presented information on the less-than-successful efforts to introduce lake protection aspects such as the importance of lake classification and a mitigation requirement into the Oneida County shoreland zoning ordinance revision process. He described how the local ordinance was changed over the years and that lakeshore property owners got “frustrated” with the long debate and the fact they don’t want the lakes degraded. He felt NR 115 represented “the bare minimum” in shoreland protection, and he said that his organization is looking for advice about how to get a shoreland ordinance passed and implemented. The Lake and Rivers Association will continue to recommend incremental improvements to the ordinance.

After the presentation, there was discussion on what the county board did not like about ordinance suggestions, the wreck and rebuild provision in the ordinance that is from the old NR 115, cooperative work with the county board which has ultimate approval authority, Price County copying the Oneida County ordinance, lack of water quality-related articles in local papers, and the relationship between water quality and tourism and other economic gains to a community.

Item #4 Presentation of the Langlade County ordinance—Becky Frisch, Langlade County; and Comments on the Revised NR 115—Karl Kastrosky, Wisconsin County Code Administrators (WCCA) and Bayfield County

Frisch presented the Langlade County shoreland zoning ordinance. Her presentation covered the county shoreland zoning ordinance creation; seven criteria for classifying lakes 20 acres or larger; waters classifications for lakes, and rivers and streams; how the county deals with legal pre-existing structures and impervious surfaces; shoreland buffer restoration requirements and exemptions; erosion and runoff control; and view corridors. She pointed out that Langlade County’s lowest level of required vegetative buffer (of 50 feet) is higher than the minimum state standard of 35 feet. She also pointed out that the “non-conforming structures” provisions in NR 115 (known as “legal pre-existing structures” in Langlade County) could cause Langlade County to have to change their own code.

Kastrosky presented information on NR 115 from a state level. His presentation covered the revised NR 115’s intention, impact on affected citizens, and implementation; and the need for

technical help, and information and education activities on the revised NR 115. He said implementing the shoreland rules would be costly, and his county was considering redirecting agricultural cost share money to shoreland work. An apparent change of heart by DNR Secretary Cathy Stepp to reopen the rules had led to the Wisconsin County Code Administrators' NR 115 implementation committee to write a letter to DNR with their ongoing concerns about the rule, especially concerns about how the rule affects urban towns, and the pre-existing legal structures issue.

After the presentations, there was discussion on expanding legal pre-existing structures; overcoming opposition to and enforcement of county shoreland zoning ordinance; whether lake classification was important to shoreland zoning; and if WCCA stands behind the revised NR 115.

Item #5 Public comment on forum

Terri Dopp Paukstat with Waushara County Land Conservation and Zoning Department presented a letter to DNR that outlined the county's concerns with repeal or revisions of NR 115. The county was able to secure greater trout stream and wetland setbacks beyond NR 115. The county is not in favor of discarding the changes made to its ordinance as a result of the revised NR 115.

There were also public comments on the value of this forum including the exchange of information, rich content, and the invaluable knowledge provided by counties on protecting waters through effective ordinances and education.

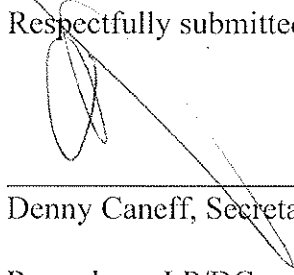
Item #6 Forum wrap-up

Cupp announced that at the next LWCB Officers meeting, the Officers will review the forum minutes and decide on who the minutes should be distributed to.

Adjourn

Rudolph made a motion for the forum to adjourn, and Leary seconded the motion. The motion passed, and the forum adjourned at 3:55 p.m.

Respectfully submitted,


Denny Caneff, Secretary

6/27/11
Date

Recorders: LP/DC